

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWIGHT T. BULEY,

Petitioner,

v.

Case No. 08-14005
Honorable Paul D. Borman

THOMAS BELL,

Respondent.

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ORDER DISMISSING CASE

On September 17, 2008, Petitioner Dwight T. Buley, a state prisoner presently confined at the Gus Harrison Correctional Facility in Adrian, Michigan, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, case number 08-14005, which was assigned to the undersigned Judge. Upon initial screening of the case, this Court discovered that, on August 26, 2008, Petitioner also filed a habeas action with this Court, case number 08-13688, which was assigned to a different judge. *Buley v. Bell*, Case No. 08-CV-13688 (Ludington, J.). However, because Petitioner failed to pay the necessary filing fee in that case, an order was entered requesting that Petitioner comply by paying the necessary filing fee or file an application to proceed *in forma pauperis*. *See Buley v. Bell*, Case No. 08-CV-13688 (Dkt. # 2). Now, it appears that Petitioner, in an attempt to correct his deficiency, filed an application to proceed *in forma pauperis* and attached this present petition to that application.

Accordingly, the instant action must be dismissed as duplicative. Petitioner challenges the same convictions and raises the same claims in both petitions. Therefore, the Court will dismiss this second petition as duplicative. *See Davis v. United States Parole Comm'n*, 870 F.2d

657 (6th Cir. March 7, 1989) (district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition).

Accordingly, the Court **DISMISSES** the instant case as duplicative. This dismissal is without prejudice to the habeas petition filed as Case No. 08-13688. In order to proceed, Defendant is instructed to file an *in forma pauperis* application in Case No. 08-13688, if he has not already done so.

IT IS SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: September 26, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 26, 2008.

s/Denise Goodine
Case Manager